WP(C) 3625/2006
BEFORE

HON'BLE MR JUSTICE AMITAVA ROY

Heard Ms Mallik, learned counsel for the petitioner. Also heard Mr Goswami, learned Standing Counsel, Education Department as well as Mr B. Gogoi, learned Standing Counsel, Finance Department.

The facts in brief have to be stated. The petitioner claims to have been appointed as a Hindi Teacher in Peradhara Higher Secondary School in the District of Nalbari. In the meantime, her services have been regularized and she is presently continuing as a Senior Hindi Teacher in the said institution. By order dated 7.6.2005 she was transferred to Jalkhana Bhatuakhana High School in pursuance whereof ,she was released as well from Peradhara Higher Secondary School.

Being aggrieved, the petitioner approached this Court with WP(C) No.4522/2005 and by an interim order dated 20.6.2005 her transfer as well as release was stayed. According to the petitioner, even after the submission of the interim order of this Court, the respondent authorities did not act thereon. Being without any alternative, the petitioner filed a Contempt petition being No. COP (C) No.634/2005, during the pendency whereof, the order dated 20.6.2005 of this Court was complied with and the petitioner's transfer was cancelled by order dated 13.7.2005 issued by the Inspector of Schools, Nalbari District Circle, Nalbari. The petitioner has contended that as the stay order was served belatedly on her in January, 2006 she thereafter joined the Peradhara Higher Secondary school in February, 2006. Her only grievance before this Court is for non payment of her salary from June ,2005 till January,2006 amounting to Rs 61,000/-. The respondent authorities not having entertained her claim therefor, she is before this Court for redress.

No affidavit on behalf of the State respondents has been filed and therefore, the averments made in the petition remain uncontroverted till date.

The learned counsel for the petitioner has urged that as the order cancelling her(petitioner) transfer was not served on her till January, 2006, she cannot be denied her salary for the period from June,2005 till January,2006. In the facts and circumstances, therefore, a writ of mandamus ought to be issued to redress her grievance, he has pleaded.

Mr Goswami has contended on instructions that though the Education Department on principle decided to accede to the claim of the petitioner, the process could not be completed till today in view of the unavoidable official formalities.

Mr Gogoi has urged that as the Education Department has not yet been able to respond to all the queries posed by the Finance Department , no final decision on the issue could be taken till this point of time.

Upon hearing the learned counsel for the parties and on a consideration of the pleadings available before this Court, I am of the view that it would be in the interest of justice to close this proceeding with the following directions -

1) The Commissioner and the Secretary to the Govt. of Assam, Education as well as Finance Departments would cause necessary steps to be taken to verify the claim of the petitioner. In doing so, it ought to be examined in particular whether the order staying the order of transfer in deference to the order dated 20.6.05 of this Court, had been served on the petitioner and if so, the date thereof. If the service had not been effected before January,2006 as contended by the petitioner, she would be entitled to her dues as claimed. If it is otherwise , an appropriate decision would be taken by the authorities so entrusted with the matter.

2) The aforementioned authorities may detail competent and authorized functionaries of the departments to administer the exercise .

In doing so, they are authorized to take steps to summon and obtain necessary r

ecords from the officials concerned and ensure that the process is completed wit hin the time frame fixed by this Court.

3) The exercise as ordered should be completed within a period of six(6) wee ks from the date of receipt of the certified copy of this order.

Needless to say that the decision taken on the issue should be communic ated to the petitioner forthwith in writing. If the petitioner is found entit led to the claim made hereinabove, the Commissioner and Secretary to the Govt. o f Assam, Education as well as Finance department would ensure that the quantifie d sum is remitted to her within a fortnight from the date of completion of the process as ordered .

The petition stands allowed in the above terms. No costs.